

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sebastian Torero	Team: Squad #1	CCRB Case #: 201905628	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/20/2019 7:25 PM	Location of Incident: In front of 444 Sprague Avenue	Precinct: 123	18 Mo. SOL 12/20/2020	EO SOL 8/6/2021	
Date/Time CV Reported Thu, 06/27/2019 8:21 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/27/2019 8:21 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Michael Venditti	00718	952318	NARCBSI
2. DT3 Andrew Babajko	03780	947974	NARCBSI

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Andrew Babajko	Abuse: Detective Andrew Babajko stopped § 87(2)(b)	
B.DT3 Michael Venditti	Abuse: Detective Michael Venditti stopped § 87(2)(b)	
C.DT3 Michael Venditti	Abuse: Detective Michael Venditti frisked § 87(2)(b)	
D.DT3 Andrew Babajko	Abuse: Detective Andrew Babajko searched the vehicle in which § 87(2)(b) was an occupant.	
E.DT3 Michael Venditti	Abuse: Detective Michael Venditti searched § 87(2)(b)	
F.DT3 Michael Venditti	Abuse: Detective Michael Venditti searched the vehicle in which § 87(2)(b) was an occupant.	

Case Summary

On June 27, 2019, § 87(2)(b) filed the following complaint with the CCRB online.

On June 20, 2019, at approximately 7:25 PM, § 87(2)(b) parked his vehicle in front of a fire hydrant at 444 Sprague Avenue in Staten Island. Det. Michael Venditti and Det. Andrew Babajko, assigned to Staten Island Narcotics, stopped § 87(2)(b) (**Allegation A and Allegation B: Abuse of Authority**, § 87(2)(g)). Det. Venditti frisked § 87(2)(b) while Det. Babajko searched § 87(2)(b)'s car and emerged with a baton (**Allegation C and Allegation D: Abuse of Authority**, § 87(2)(g)). Det. Venditti then handcuffed and searched § 87(2)(b). Det. Venditti then searched § 87(2)(b)'s vehicle (**Allegation E and Allegation F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was arrested and released with a Desk Appearance Ticket for § 87(2)(b).

There is no video footage of the incident.

Findings and Recommendations

Allegation A—Abuse of Authority: Detective Andrew Babajko stopped § 87(2)(b)

Allegation B—Abuse of Authority: Detective Michael Venditti stopped § 87(2)(b)

It is undisputed that § 87(2)(b) parked his vehicle in front of a fire hydrant and was not in the front seat of his vehicle when stopped.

New York State Vehicle and Traffic Law § 1202, section b, subsection 1, states that no person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such a vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such a vehicle in case of emergency (Board Review 01).

§ 87(2)(g)

Allegation C—Abuse of Authority: Detective Michael Venditti frisked § 87(2)(b)

Allegation D—Abuse of Authority: Detective Andrew Babajko searched the vehicle in which § 87(2)(b) was an occupant.

Allegation E—Abuse of Authority: Detective Michael Venditti searched § 87(2)(b)

Allegation F—Abuse of Authority: Detective Michael Venditti searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) had an expandable metal baton in his vehicle; that both Det. Babajko and Det. Venditti searched § 87(2)(b)'s vehicle; and that Det. Venditti handcuffed, frisked, and searched § 87(2)(b). It is disputed whether Det. Venditti frisked § 87(2)(b) before or after the baton was discovered, and where the baton was located in § 87(2)(b)'s vehicle.

§ 87(2)(b) testified that he kept the baton in the center console compartment of his vehicle, and that in order to discover the baton Det. Babajko would have had to open the center console compartment. § 87(2)(b) also testified that Det. Venditti frisked him prior to Det. Babajko emerging from the vehicle holding the baton, and that after Det. Babajko emerged from the vehicle holding the baton, Det. Venditti searched § 87(2)(b)'s pockets and waistband. § 87(2)(b) testified that after completing the search of § 87(2)(b)'s person, Det. Venditti then searched the

trunk of § 87(2)(b)'s vehicle (Board Review 02).

Det. Venditti testified that, as he was speaking to § 87(2)(b) outside of the open front passenger's side door of § 87(2)(b)'s vehicle, he saw a collapsed, black metal baton approximately six to eight inches in length with blue tape on it on the front passenger's seat. Det. Venditti signaled to Det. Babajko about the baton; he could not recall what this signal was, or whether it was verbal or nonverbal. Det. Venditti considered § 87(2)(b) under arrest at this point, and so he handcuffed, frisked, and searched § 87(2)(b). Although he did not specifically recall searching the center console or trunk of § 87(2)(b)'s vehicle, Det. Venditti believed that the grabbable areas of § 87(2)(b)'s vehicle were searched (Board Review 03). Det. Venditti completed the arrest paperwork and gave a supporting deposition regarding this incident and consistently documented that he observed the baton in plain view in the front passenger's seat (Board Review 04 and 05).

Det. Babajko testified that he was standing outside the open front driver's side door of § 87(2)(b)'s vehicle as Det. Venditti was speaking to § 87(2)(b). He observed Det. Venditti nod his head and look toward the front passenger's seat of § 87(2)(b)'s vehicle. Having worked with Det. Venditti for nine months Det. Babajko recognized this head nod to signal that there was something significant in the vehicle that was likely to lead to arrest. Det. Babajko looked at the front passenger's seat and saw a collapsed metal baton, about six inches in length. Det. Venditti led § 87(2)(b) to the police vehicle and Det. Babajko searched on top of, around, and underneath the front driver's and passenger's seats, and around the backseats, of § 87(2)(b)'s car (Board Review 06).

People v. Springer, 118 A.D.2d 606 (1986), found that officers who observed a gun in a vehicle occupant's waistband and other weapons in plain view inside the vehicle had probable cause to arrest the occupant and search the vehicle (Board Review 07). People v. Blinker, 80 A.D.3d 619 (2011) found that when officers have probable cause to arrest an individual, a search of that individual incident to an arrest is lawful (Board Review 08).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Det. Andrew Babajko has been a member-of-service for 10 years and has been a subject in five CCRB complaints and 13 allegations, none of which were substantiated.
- Det. Michael Venditti has been a member-of-service for seven years and has been a subject in five CCRB complaints and 12 allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.

- As of November 7, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 09).
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 1

Investigator:	_____	Inv. Sebastian Torero	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date